

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 11 1996

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)	
)	
Price Cap Performance Review)	
for Local Exchange Carriers)	CC Docket No. 94-1
)	
Treatment of Operator)	
Services Under Price)	CC Docket No. 93-124
Cap Regulation)	
)	
Revisions to Price Cap Rules)	CC Docket No. 93-197
for AT&T)	

MOTION FOR EXTENSION OF TIME

Pursuant to Section 1.46 of the Commission's rules, 47 C.F.R. § 1.46, Customers for Access Rate Equity ("CARE") through the undersigned representatives of its members hereby requests the Commission to defer the scheduled date for filing of reply comments herein on the Pricing Flexibility NPRM¹ from January 10, 1996, to and including February 13, 1996.² CARE is a coalition comprised

¹ Price Cap Performance Review for Local Exchange Carriers, CC Docket 94-1, Second Further Notice of Proposed Rulemaking, FCC 95-393, released September 20, 1995 ("Pricing Flexibility NPRM").

² Additionally, CARE's undersigned members request waiver of Section 1.46(b) of the Commission's rules, 47 C.F.R. § 1.46(b), to permit the filing of their motion for extension less than 7 days before the scheduled January 10, 1996 deadline for filing reply comments. The Commission's unexpected closing from December 18 until today, due to the federal government budget impasse, precluded filing of the request for extension in accordance with the Commission's normal prescribed interval.

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of interexchange carriers, trade associations and other private representatives of business and residential telecommunications customers, and governmental organizations representing telecommunications consumer interests. CARE's members and the groups they represent are critically affected by potential changes in LEC access rates that could result from proposals under consideration in the Pricing Flexibility NPRM, and members of CARE have actively participated in CC Docket No. 94-1 from its inception.

The Pricing Flexibility NPRM, when first released, contemplated that comments would be filed on November 20, 1995, with replies on December 20. However, in late October it became apparent to many parties -- including both CARE members as well as the LECs and their representatives -- that an extension of those dates was required, both in view of the complexity of the issues presented here and their integral relationship with the Commission's companion X-Factor NPRM, whose pleading cycle overlaps with this proceeding.³ The Commission agreed that such relief was clearly warranted

³ Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Fourth Further Notice of Proposed Rulemaking, FCC 95-406, released September 27, 1995 ("X-Factor NPRM"). Comments in the X-Factor NPRM were then due November 27, 1995, with reply comments due on December 27.

"in light of the important issues presented in this proceeding, and in order to ease the burden on the parties and to allow parties to submit comments that are more helpful to the Commission"

Accordingly, the Commission extended the dates for filing of both comments and replies by three weeks, i.e., to December 11, 1995 and January 10, 1996, respectively.⁴ For similar reasons, in a later companion order, the Commission also deferred the filing dates in the X-Factor NPRM to maintain the relationship between that pleading cycle and the comment and reply dates in this matter.⁵

Subsequent events require a further adjustment in the pleading schedule in this proceeding. Specifically, on December 11, more than 30 parties filed voluminous comments on the Commission's tentative conclusions in this proceeding, as well as offering numerous suggested alternatives to those pricing flexibility proposals. Many of those pleadings included statements from experts,

⁴ Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Order on Motion for Extension of Time, DA 95-2340, released November 13, 1995 ("November 13 Order").

⁵ Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Order on Motion for Extension of Time, DA 95-2361, released November 21, 1995. Under the revised X-Factor NPRM schedule, comments were due December 18, 1995, with replies on January 17, 1996.

economic studies or other supporting information.⁶ These submissions clearly reflect the fact that commenters had 82 calendar (and 55 business) days in which to prepare their filings as a result of the Commission's scheduling orders herein.

Although preparation of reply comments that comprehensively address the initial round of filings within the 30 calendar days allowed under the Commission's present schedule would have been difficult under any circumstances, that task has been rendered even more burdensome here by a variety of factors. First, because the reply cycle straddled the Christmas-New Year's holiday period, less than twenty business days were available in which to prepare those filings. The limited availability of key personnel during the holiday period, as well as other factors, has further complicated the reply process. Simply obtaining, duplicating and distributing copies of the initial round of comments to counsel and other personnel of CARE members consumed several days of the already limited reply period. Additionally, logistical problems caused by severe winter storms in the Northeastern portion of the country during the

⁶ E.g., Bell Atlantic Comments (Affidavit of Richard J. Gilbert and Robert G. Harris); id. (Affidavit of Alfred E. Kahn); BellSouth Comments (Statement of Professor Jerry A. Hausman); Pacific Bell/Nevada Bell Comments (Report by Alfred E. Kahn and Timothy J. Tariff); USTA Comments (Statement by Richard Schmalensee and William Taylor).

pre-Christmas week interfered with efforts to prepare the parties' reply comments.

The unforeseen results of the Commission's prolonged closing due to the budget impasse have further impacted the parties' ability to prepare reply comments on the Pricing Flexibility NPRM. The Commission's prior scheduling orders envisioned that comments and replies in this proceeding and in the X-Factor NPRM would be sequenced so as to permit parties to apply their resources to fully address the issues in both proceedings. However, because comments in the X-Factor NPRM could not be filed as scheduled on December 18 due to the Commission's closing, those pleadings are only being filed today. Absent any modification to the schedule in that proceeding, reply comments there will be due on January 17 -- requiring a concentrated effort that would substantially overlap with the final stages of reply commenters' preparation here.⁷

Against this background, it is apparent that a further extension of the comment cycle is necessary to achieve the Commission's goals in this proceeding. As the Commission has already acknowledged, the issues in this proceeding regarding the appropriate latitude for LEC pricing flexibility are of critical importance, both to

⁷ In view of the substantial delay in filing comments in the X-Factor NPRM and the brief time now available under the current schedule for reply to those filings, CARE members also anticipate requesting an extension of the date for filing reply comments there.

access customers and end users.⁸ Any determinations regarding these crucial issues should be based on a fully developed record which includes reply comments that provide the most useful possible input to the Commission's decisionmaking process. Such input, however, cannot be guaranteed if parties are forced to adhere to the present schedule, which is burdensome in itself and is doubly so in light of the current pleading cycle in the X-Factor NPRM.

To remedy this untenable situation, the undersigned CARE members urge the Commission to order a five week extension in the current reply cycle in this proceeding, from January 10 to February 13. Such an extension will assure that all parties have sufficient time to fully examine and comment on all aspects of the initial round of pleadings. Moreover, a deferral of this duration will help to assure that the development of a full record here is not compromised by the parties' need to devote resources to addressing other critical issues raised in the pending X-Factor NPRM.

WHEREFORE, for the reasons stated above, the Commission should extend the date for filing reply comments

⁸ See November 13 Order, ¶ 3.

on the Pricing Flexibility NPRM from January 10 to
February 14, 1996.

Respectfully submitted,

AT&T CORP.

AD HOC TELECOMMUNICATIONS
USERS COMMITTEE

By Peter H. Jacoby /sc
Mark C. Rosenblum
Peter H. Jacoby
Room 3245H1
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-4243

By James S. Blaszak /sc
James S. Blaszak
Colleen L. Boothby
Levine, Blaszak,
Block & Boothby
Suite 500
1300 Connecticut Avenue
Washington, DC 20036
(202) 223-4978
(202) 223-4981

AMERICAN PETROLEUM
INSTITUTE

CONSUMER FEDERATION OF
AMERICA

By C. Douglas Jarrett /sc
C. Douglas Jarrett
Keller & Heckman
Suite 500 West
1001 G Street, NW
Washington, DC 20001
(202) 434-4180

By Bradley Stillman /sc
Bradley Stillman
#604
1424 16th Street, NW
Washington, DC 20036
(202) 387-6121

INTERNATIONAL
COMMUNICATIONS ASSOCIATION

TELECOMMUNICATIONS
RESELLERS ASSOCIATION

By Brian R. Moir /sc
Brian R. Moir
Moir & Hardman
Suite 512
2000 L Street, NW
Washington, DC 20036-4907
(202) 331-9852

By Kevin S. DiLallo /sc
Kevin S. DiLallo
Hunter & Mow
Suite 701
1620 Eye Street, NW
Washington, D.C. 20006

NATIONAL ASSOCIATION OF
STATE UTILITY CONSUMER
ADVOCATES

By Deborah Berlyn / R
Deborah Berlyn
Suite 575
1133 15th Street, NW
Washington, DC 20005
(202) 727-3908

January 11, 1996

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 11th day of January, 1996, a copy of the foregoing "Motion for Extension of Time" was mailed by U.S. first class mail, postage prepaid, to the parties on the attached Service List.


Ann Marie Abrahamson

SERVICE LIST

James S. Blaszak
Levine, Blaszak, Block and Boothby
1300 Connecticut Ave. NW, Suite 500
Washington, D.C. 20036-1703
Attorney for Ad Hoc
Telecommunications Users Group

Susan M. Gately
Economics and Technology, Inc.
One Washington Mall
Boston, MA 02108-2617
Consultant for Ad Hoc
Telecommunications Users Group

Gary R. Phillips
Michael S. Pabian
Ameritech
Room 4H82
2000 W. Ameritech Center Drive
Hoffman Estates, IL 60196

Richard J. Metzger
General Counsel
Association for Local
Telecommunications Services
1200 19th Street, NW, Suite 560
Washington, D.C. 20036

Michael E. Glover
Edward Shakin
Edward D. Young, III
Bell Atlantic Companies
Eighth Floor
1320 N. Courthouse Rd.
Arlington, VA 22201

Gary M. Epstein
James H. Barker
Latham & Watkins
Suite 1300
1001 Pennsylvania Ave., NW
Washington, D.C. 20004-2505
Attorneys for BellSouth
Telecommunications, Inc.

M. Robert Sutherland
Richard M. Sbaratta
BellSouth Telecommunications, Inc.
4300 Southern Bell Center
675 W. Peachtree St., NE
Atlanta, GA 30375

Alan J. Gardner
Jerry Yanowitz
Jeffrey Sinsheimer
California Cable Television Assn.
4341 Piedmont Avenue
Oakland, CA 94611

Donna N. Lampert
Russell C. Merbeth
Mintz, Levin, Cohn, Ferris,
Glovisky and Popeo, P.C.
701 Pennsylvania Ave., NW, Suite 900
Washington, D.C. 20004
Attorneys for California
Cable Television Association

Walter Bolter
Economic Consultant
Bethesda Research Institute, Ltd.
P.O. Box 4044
St. Augustine, FL 32085
Consultant for California Cable
Television Association

Thomas R. Taylor
Jack B. Harrison
Frost & Jacobs
2500 PNC Center
201 E. Fifth St.
Cincinnati, OH 45202
Attorneys for Cincinnati Bell
Telephone Company

Leonard J. Kennedy
Alura H. Phillips
Peter A. Batacan
Dow, Lohnes & Albertson
1255 23rd Street, NW, Suite 500
Washington, D.C. 20037
Attorneys for ComCast Corporation

Danny E. Adams
Jeffrey S. Linder
Wiley, Rein & Fielding
1776 K Street, NW
Washington, D.C. 20006
Attorneys for Competitive
Telecommunications Association

Genevieve Morelli
VP and General Counsel
Competitive Telecommunications Assn.
1140 Connecticut Ave., NW, Suite 220
Washington, D.C. 20036

Emily C. Hewitt
Vincent L. Crivella
Michael J. Ettner
Jody B. Burton
General Service Administration
18th & F Streets, NW, Room 4002
Washington, D.C. 20405

Snavely, King & Associates
1220 L Street, NW
Washington, D.C. 20005
Economic Consultant for General
Service Administration

Gail L. Polivy
GTE Service Corporation
1850 M Street, NW, Suite 1200
Washington, D.C. 20036

Michael L. Glaser
K. Harsha Krishman
Hopper & Kanouff, P.C.
1610 Wynkoop, Suite 200
Denver, CO 80202-1196
Attorneys for ICG Access
Services, Inc.

Robert J. Butler
Kurt E. DeSoto
Wiley, Rein & Fielding
1776 K Street, NW
Washington, D.C. 20006
Attorneys for Information
Industry Association

R. Michael Senkowski
Jeffrey S. Linder
Wiley, Rein & Fielding
1776 K Street, NW
Washington, D.C. 20006
Attorneys for Information
Technology and Telecommunications
Association

Robert J. Aamoth
Reed Smith Shaw & McClay
Suite 1100 - East Tower
1301 K Street, NW
Washington, D.C. 20005
Attorney for LCI International, Inc.

Douglas W. Kinkoph
LCI International, Inc.
8180 Greensboro Drive, Suite 800
McLean, VA 22102

Peter A. Rohrbach
Karis A. Hastings
Hogan & Harston L.L.P.
555 13th Street, NW
Washington, D.C. 20004
Attorneys for LDDS Worldcom, Inc.

Catherine Sloan
Richard Fruchterman
Richard Whitt
LDDS WorldCom
1120 Connecticut Ave., NW, Suite 400
Washington, D.C. 20036

Chris Frentrup
Senior Regulatory Analyst
Federal Regulatory
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, NW
Washington, D.C. 20006

Andrew D. Lipman
Jonathan E. Canis
Swidler & Berlin, Chartered
3000 K Street, NW
Washington, D.C. 20007
Attorneys for MFS Communications
Company, Inc.

Cindy Z. Schonhaut
VP Government Affairs
MFS Communications Company, Inc.
3000 K Street, NW
Washington, D.C. 20007

Daniel L. Brenner
Neal M. Goldberg
David L. Nicoll
1724 Massachusetts Ave., NW
Washington, D.C. 20036
Counsel for the National Cable
Television Association, Inc.

Maureen O. Halmar
General Counsel
New York State Department of
Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Joseph DiBella
The NYNEX Telephone Companies
1300 I Street, NW, Suite 400 West
Washington, D.C. 20005

Lisa M. Zaina
Stuart Polikoff
The Organization For The
Protection and Advancement
of Small Telephone Companies
21 Dupont Circle, NW, Suite 700
Washington, D.C. 20036

Lucille M. Mates
John W. Bogy
Pacific Bell and Nevada Bell
140 New Montgomery St., Room 1530A
San Francisco, CA 94105

James L. Wurtz
Margaret E. Garber
Pacific Bell and Nevada Bell
1275 Pennsylvania Avenue, NW
Washington, D.C. 20004

Eugene J. Baldrate
Director - Federal Regulatory
Southern New England Telephone Co.
227 Church Street
New Haven, CT 06510

Robert M. Lynch
Durward D. Dupre
Thomas A. Pajda
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63101

Jay C. Keithley
Richard Juhnke
Norina T. Moy
Sprint Corporation
1850 M St., NW, Suite 1110
Washington, D.C. 20036

Cheryl A. Tritt
Charles H. Kennedy
Eric N. Richardson
James A. Casey
Morrison & Foerster
2000 Pennsylvania Ave., NW, Suite 5500
Washington, D.C. 20006-1888
Attorneys for Sprint
Telecommunications Venture

Jonathan M. Chambers
Sprint Telecommunications Venture
1850 M St., NW, Suite 1100
Washington, D.C. 20036

Charles C. Hunter
Kevin S. DiLallo
Hunter & Mow, P.C.
1620 I Street, NW, Suite 701
Washington, D.C. 20006
Attorneys for Telecommunications
Resellers Association

J. Manning Lee
Gail Garfield Schwartz
Teleport Communications Group Inc.
Two Teleport Drive. Suite 300
Staten Island, NY 10311

David R. Poe
Brian T. Fitzgerald
LeBoeuf, Lamb, Greene &
MacRae, L.L.P.
1875 Connecticut Avenue, NW
Washington, D.C. 20009-5728
Attorneys for Time Warner
Communications Holdings, Inc.

Paul B. Jones
Janis Stahlhut
Donald F. Shepheard
Time Warner Communications
Holdings, Inc.
300 First Stamford Place
Stamford, CT 06902-6732

Dr. Lee L. Selwyn
Susan M. Baldwin
Economics and Technology, Inc.
One Washington Mall
Boston, MA 02108
Consultant for Time Warner
Communications Holdings, Inc.

Mary McDermott
Linda Kent
Charles D. Cosson
United States Telephone Association
1401 H St., NW, Suite 600
Washington, D.C. 20005

Gregory L. Cannon
Dan L. Poole
U S WEST Communications, Inc.
1020 19th Street, NW, Suite 700
Washington, D.C. 20036